

EXHIBIT B

- 1 -

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481 (RDD); Adv. Proc. No. 07-02619 (RDD);

Adv. Proc. No. 07-02242 (RDD); Adv. Proc. No. 07-02256 (RDD);

Adv. Proc. No. 07-02333 (RDD); Adv. Proc. No. 07-02580 (RDD);

Adv. Proc. No. 07-02661 (RDD); Adv. Proc. No. 07-02743 (RDD);

Adv. Proc. No. 07-02768 (RDD); Adv. Proc. No. 07-02769 (RDD);

Adv. Proc. No. 07-02790 (RDD); Adv. Proc. No. 07-02076 (RDD);

Adv. Proc. No. 07-02084 (RDD); Adv. Proc. No. 07-02096 (RDD);

Adv. Proc. No. 07-02125 (RDD); Adv. Proc. No. 07-02177 (RDD);

Adv. Proc. No. 07-02188 (RDD); Adv. Proc. No. 07-02211 (RDD);

Adv. Proc. No. 07-02212 (RDD); Adv. Proc. No. 07-02236 (RDD);

Adv. Proc. No. 07-02250 (RDD); Adv. Proc. No. 07-02262 (RDD);

Adv. Proc. No. 07-02270 (RDD); Adv. Proc. No. 07-02291 (RDD);

Adv. Proc. No. 07-02328 (RDD); Adv. Proc. No. 07-02337 (RDD);

Adv. Proc. No. 07-02348 (RDD); Adv. Proc. No. 07-02432 (RDD);

Adv. Proc. No. 07-02436 (RDD); Adv. Proc. No. 07-02449 (RDD);

Adv. Proc. No. 07-02479 (RDD); Adv. Proc. No. 07-02525 (RDD);

Adv. Proc. No. 07-02534 (RDD); Adv. Proc. No. 07-02539 (RDD);

Adv. Proc. No. 07-02551 (RDD); Adv. Proc. No. 07-02581 (RDD);

Adv. Proc. No. 07-02597 (RDD); Adv. Proc. No. 07-02618 (RDD);

Adv. Proc. No. 07-02623 (RDD); Adv. Proc. No. 07-02659 (RDD);

Adv. Proc. No. 07-02672 (RDD); Adv. Proc. No. 07-02702 (RDD);

Adv. Proc. No. 07-02723 (RDD); Adv. Proc. No. 07-02743 (RDD);

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1 Adv. Proc. No. 07-02744 (RDD); Adv. Proc. No. 07-02750 (RDD);
2 Adv. Proc. No. 07-02188 (RDD)

3 - - - - -x

4 In the Matter of:

5 DPH HOLDINGS CORP., et al.,

6 Reorganized Debtors.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 SETECH INC., et al.,

12 Defendants.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 DUPONT COMPANY, et al.,

18 Defendants.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 ECO-BAT AMERICA LLC,

24 Defendant.

25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 GLOBE MOTORS INC.,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 PHILIPS SEMICONDUCTOR, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 SUMMIT POLYMERS INC.,
18 Defendant.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 M & Q PLASTIC PRODUCTS, et al.,
24 Defendants.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 RSR CORPORATION, et al.,
6 Defendants.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 RSR/ECOBAT,
12 Defendant.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 TYCO et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 AHAUS TOOL & ENGINEERING INC.,
24 Defendant.
25 - - - - -x

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1 - - - - -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 A 1 SPECIALIZED SVC & SUPP., INC.,

6 Defendant.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 A-1 SPECIALIZED SERVICES,

12 Defendant.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 ATS AUTOMATION TOOLING SYSTEMS INC., et al.,

18 Defendants.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 CORNING INC., et al.,

24 Defendants.

25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 CRITECH RESEARCH INC.,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 DOSHI PRETTL INTERNATIONAL, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 D & R TECHNOLOGY LLC, et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 DSSI, et al.,
24 Defendants.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 DANOBAT MACHINE TOOL CO. INC.,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 EDS, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 BP, et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 CARLISLE, et al.,
24 Defendants.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 GKNS INTERMETALS,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 EX-CELL-O MACHINE TOOLS INC.,
12 Defendant.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 JOHNSON CONTROLS, et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 NILES USA INC., et al.,
24 Defendants.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 METHODE ELECTRONICS INC., et al.,
6 Defendants.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 MICROCHIP,
12 Defendant.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 HEWLETT PACKARD, et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 OLIN CORP,
24 Defendant.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 INTEC GROUP,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 VALEO, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 VANGUARD DISTRIBUTORS,
18 Defendant.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 VICTORY PACKAGING, et al.,
24 Defendants.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 WAGNER-SMITH COMPANY,
6 Defendant.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 WELLS FARGO BUSINESS, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 SELECT TOOL & DIE CORP.,
18 Defendant.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 SHUERT INDUSTRIES INC.,
24 Defendant.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 SUMITOMO, et al.,
6 Defendants.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 TECH CENTRAL,
12 Defendant.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 PRUDENTIAL RELOCATION, et al.,
18 Defendants.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 LDI INCORPORATED,
24 Defendant.
25 - - - - -x

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1 - - - - -x
2 DELPHI CORPORATION, et al.,
3 Plaintiffs,
4 -against-
5 M & Q PLASTIC PRODUCTS, et al.,
6 Defendants.
7 - - - - -x
8 DELPHI CORPORATION, et al.,
9 Plaintiffs,
10 -against-
11 REPUBLIC ENGINEERED PRODUCTS, et al.,
12 Defendants.
13 - - - - -x
14 DELPHI CORPORATION, et al.,
15 Plaintiffs,
16 -against-
17 RIECK GROUP LLC,
18 Defendant.
19 - - - - -x
20 DELPHI CORPORATION, et al.,
21 Plaintiffs,
22 -against-
23 CRITECH RESEARCH INC.,
24 Defendant.
25 - - - - -x

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U.S. Bankruptcy Court
300 Quarropas Street
White Plains, New York

July 22, 2010

10:20 AM

B E F O R E:

HON. ROBERT D. DRAIN

U.S. BANKRUPTCY JUDGE

1 end of this hearing, since it's just one entity?

2 MS. SCHWEITZER: I'm fine to do that at the end. I
3 just wanted to make sure.

4 THE COURT: All right.

5 MS. SCHWEITZER: Thank you.

6 MR. WINSTEN: Your Honor, I.W. Winsten again.

7 I did want to be heard for just a brief moment on
8 Iqbal and what the Iqbal standard should be if they replead.

9 Given that it's been five years, given that as of
10 today we still don't know who the plaintiff is for each
11 transfer. If you look at page 1 of their omnibus brief, it's
12 still being filed and behalf of unidentified affiliates.

13 THE COURT: I'm told of that.

14 MR. WINSTEN: Okay. We would request that given the
15 prejudice and so forth that's occurred, not only should you
16 impose the most exacting Iqbal standard possible, there's an
17 argument you should go even further.

18 And my hunch is this, Your Honor. My hunch is that
19 after five years either they don't have the facts available
20 anymore to support their claims, or they had them and lost
21 them, or they never had them, and they know it's going to
22 expose it so thin if they have to say who the transferor is,
23 who the plaintiff is, who the transferee is, who the antecedent
24 debt is, what's the purchase order, is it an initial
25 transferee, is it an immediate transferee, who's the defendant.

1 Requiring for them to do all those things seems to me
2 to be the minimum of fairness --

3 THE COURT: Well, look, it's a motion for leave to
4 amend the complaint on unusual circumstances. It's really
5 their risk if I turn them down again, right? So --

6 MR. WINSTEN: My only point was that it should be
7 Iqbal plus, not Iqbal minus.

8 THE COURT: Well, I don't know what that means. And,
9 frankly, I think the Supreme Court's been pretty careful not to
10 turn Iqbal into a plus.

11 MR. WINSTEN: Right.

12 THE COURT: So --

13 MR. WINSTEN: But these are our --

14 THE COURT: But I think that the risk of being turned
15 down on the basis of the complaint still isn't good enough is a
16 serious enough -- the consequences of that are serious enough
17 so I assume that the plaintiffs are going to be pretty careful.

18 MR. WINSTEN: A suggestion when we get there is that
19 they ought to attach a draft --

20 THE COURT: Well, you have to do that.

21 MR. WINSTEN: Yes. So we know --

22 THE COURT: Yeah, absolutely.

23 MR. WINSTEN: -- what the form's going to be.

24 THE COURT: Got to do that.

25 MR. WINSTEN: Let me move to assumed contracts. This

1 is another way in which you can --

2 THE COURT: Well, I don't think there's any issue on
3 this, right? How about if the debtors acknowledge that if the
4 contract has been assumed there's no preference?

5 MR. WINSTEN: Well, what's interesting, Your Honor, is
6 we --

7 THE COURT: Well, let me just -- is there -- is that
8 an issue?

9 MR. GEOGHAN: There's no debate about that, Your
10 Honor. The concept we all agree on; the problem has been in
11 corroborating the information that's been supplied. And what
12 we've done --

13 THE COURT: Okay.

14 MR. GEOGHAN: -- in any instance where a defendant has
15 said 'you have assumed our contract and the preference payment
16 that you're seeking to recover was made pursuant to that
17 contract' is we've compared notes and tried to get to the
18 bottom of it and where, in fact, that's the case then we
19 voluntarily dismiss either the particular claim or the action
20 as a whole if all of the claims were pursuant to an assumed
21 contract. So there's no conceptual disagreement.

22 MR. WINSTEN: Well, there is in this sense, Your
23 Honor, because we have three clients who had assumed contracts:
24 MSX, GKN and Valeo. Take MSX that has four -- there's a four
25 million preference claim against them. We believe it's all as

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1 But I'm happy to hear people on that point before
2 turning to the one-off aspects of various motions. My view,
3 generally, with legal issues, is that I shouldn't get to the
4 more difficult issue and the issue that may raise more cost and
5 delay on appeal because it's a difficult issue if there's a
6 more simple issue that could be a first step. It seems to me
7 whether someone gets leave to amend a complaint or not is a
8 more simple issue that should be a first step. And appellate
9 courts are much better equipped to deal with that type of issue
10 as, frankly, I am than this really sui generis issue about when
11 does someone improperly exercise their discretion under Rule
12 4(m) combined with what is proper notice.

13 So my inclination is to hear the motion to amend first
14 which may lead to a number of complaints dropping out because
15 as you said, maybe the debtors don't have the ability to file
16 the complaint as it should be filed. But I'm happy to hear
17 people on that.

18 MR. WINSTEN: Your Honor --

19 THE COURT: I will -- well, go ahead.

20 MR. WINSTEN: Is what you're envisioning -- because I
21 think this is the only way that that plan could work from your
22 end -- that the debtor, as to those preference actions that it
23 elects to want to proceed with, has to have an amended -- a
24 motion to amend and an amended complaint; it's not one form.
25 Here's what I want to do, so that somebody in complaint number

1 88 can say 'look, this isn't sufficient for me; you've got to
2 do this and that'. Otherwise it doesn't work if it's just a
3 form because --

4 THE COURT: It would have to be individual complaints.

5 MR. WINSTEN: Right.

6 THE COURT: It would have to be the complaints for
7 each one of the defendants. Absolutely.

8 MR. WINSTEN: And would you be envisioning ruling --

9 THE COURT: It would have to be a real complaint.

10 MR. WINSTEN: Yeah. Would you be envisioning ruling
11 in advance of that? For example, the foreign defendants of
12 Banff, you know, 250 issues and so forth?

13 THE COURT: Well, I would rule on that today.

14 MR. WINSTEN: All right.

15 THE COURT: And I'd rule on -- I would rule on
16 everything today with the exception of reconsideration on 4(m).
17 I'd hold that in abeyance. That issue, I think, has relevance
18 also to a motion to amend. And people could raise it in that
19 context too. So, for example, if someone contends they didn't
20 get notice at all, even of the disclosure statement, then I
21 think that would be a factor in my considering whether there
22 should be leave to amend.

23 It'd still be a live issue. I'm not going to have a
24 new hearing on it. And I might end up -- if I grant the
25 motion, or some of the motions, I would probably have to rule

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1 on that issue too. I mean, I'm not going to grant a motion to
2 amend if it's Pyrrhic or moot, so I would have to grant it at
3 that point, I suppose. If I am inclined to grant the motion to
4 amend, I'd have to deal with the 4(m) issues.

5 MS. SCHWEITZER: Your Honor, Lisa Schweitzer. The
6 only other thing I would ask is that you give the plaintiffs
7 direction as to what the deadline for bringing that --

8 THE COURT: Oh, yes.

9 MS. SCHWEITZER: -- motion would be.

10 THE COURT: Yes. Sure.

11 Did you have something to say, sir?

12 MR. GOODRICH: I just have a question about the --

13 THE COURT: I think you're going to have to come to a
14 microphone just to make sure you get picked up.

15 MR. GOODRICH: Your Honor, Robert Goodrich for Sea Cap
16 (ph.). In deferring the 4(m) issue, is the 60(b) issue coupled
17 with that?

18 THE COURT: Yes. Yes, that -- yes.

19 MR. GOODRICH: That goes hand in hand that that would
20 come up in the context of a different time. Because I think I
21 would defer my comments if --

22 THE COURT: Correct.

23 MR. GOODRICH: -- if we're going to raise those in the
24 context of a motion to amend, because that's going to come into
25 play in terms of notice.